



IRA A. JACKSON
COMMISSIONER

The Commonwealth of Massachusetts
Department of Revenue
Leverett Saltonstall Building
100 Cambridge Street, Boston 02204

October 31, 1983

("Company") is a seller of residential and commercial heating systems.

("Lessor") purchases solar heating systems from the Company, and leases them to residential and commercial users. You inquire whether such leases are subject to the sales tax.

The systems include solar collectors, closed-loop water heating equipment, and a special heat transfer fluid.

The Lessor never takes possession of the systems, but enjoys certain federal tax benefits incident to their ownership. In some instances, the Lessor will assign its rights under the leases to assignees.

The leases are for initial terms of five years. At the end of the initial lease period, the lessee may negotiate a new lease or a purchase of the system. If he does not do so, the Company removes the system at the expense of the Lessor or its assignee.

General Laws Chapter 64H, Section 6(dd) exempts from the sales tax sales of equipment directly relating to any solar system used as a primary or auxiliary power system for the purpose of heating or otherwise supplying the energy needs of an individual's principal residence in Massachusetts.

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"Sale" is defined for sales tax purposes as including leases and rentals. G.L. c. 64H, § 1(12)(a).

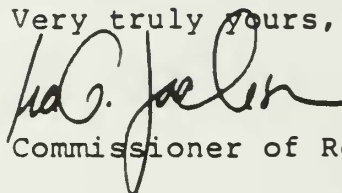
Based on the foregoing, it is ruled that leases of the systems by the Lessor for use in an individual's principal residence in Massachusetts are exempt from the sales tax. Leases for use in commercial premises are not exempt.

Form ST-12A (Exempt Use Certificate For Alternate Energy Equipment Only) must be completed with respect to each exempt lease of a solar system.

You also inquire how payment of the sales tax is to be made in those instances in which the Lessor assigns its rights under a lease.

Where a lease of a solar system is subject to tax, the Lessor is responsible for the tax so long as it retains title to the system. If, in addition to transferring its right to receive the lease payments, the Lessor transfers title to a system to an assignee, the assignee will be responsible for paying the tax from the time that title is transferred.

Very truly yours,



Commissioner of Revenue

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